

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON**

**KARA T.**<sup>1</sup>,

Plaintiff,

v.

**ANDREW M. SAUL**, Commissioner of  
Social Security,

Defendant.

Case No. 6:18-cv-1898-SI

**ORDER**

**Michael H. Simon, District Judge.**

On January 30, 2020 the Court reversed the Commissioner’s determination that Plaintiff was not disabled and remanded the matter back to the agency for further proceedings. ECF 17. Before the Court is Plaintiff’s application for attorney’s fees pursuant to the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412. ECF 18.

The EAJA authorizes the payment of attorney’s fees to a prevailing party in an action against the United States, unless the government shows that its position in the underlying litigation “was substantially justified.” 28 U.S.C. § 2412(d)(1)(A). Although the EAJA creates a

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<sup>1</sup> In the interest of privacy, this opinion uses only the first name and the initial of the last name of the non-governmental party in this case. When applicable, this opinion uses the same designation for a non-governmental party’s immediate family member.

presumption that fees will be awarded to a prevailing party, Congress did not intend fee shifting to be mandatory. *Flores v. Shalala*, 49 F.3d 562, 567 (9th Cir. 1995). The decision to deny EAJA attorney's fees is within the discretion of the court. *Id.*; *Lewis v. Barnhart*, 281 F.3d 1081, 1083 (9th Cir. 2002). A social security claimant is the "prevailing party" following a sentence-four remand pursuant to 42 U.S.C. § 405(g) either for further administrative proceedings or for the payment of benefits. *Flores*, 49 F.3d at 567-68 (citing *Shalala v. Schaefer*, 509 U.S. 292, 300 (1993)). Fee awards under the EAJA are paid to the litigant, and not the litigant's attorney, unless the litigant has assigned his or her rights to counsel to receive the fee award. *Astrue v. Ratliff*, 560 U.S. 586, 596-98 (2010).

Plaintiff seeks an award of attorney's fees in the amount of \$2,950.86. Defendant does not challenge the applicability of the EAJA statute and does not object to Plaintiff's request for attorney's fees. ECF 18. The Court has reviewed Plaintiff's motion and agrees with the parties that the EAJA petition is proper and the amount requested is reasonable.

Therefore, Plaintiff's application for attorney's fees (ECF 18), is GRANTED. Plaintiff is awarded \$2,950.86 for attorney's fees under 28 U.S.C. § 2412. EAJA fees, expenses, and costs are subject to any offsets allowed under the Treasury Offset Program, as discussed in *Ratliff*, 560 U.S. at 593-94. Attorney fees will be paid to Plaintiff's attorney, dependent upon verification that Plaintiff has no debt which qualifies for offset against the awarded fees, pursuant to the Treasury Offset Program as discussed in *Astrue v. Ratliff*, 130 S.Ct. 2521 (2010). Because Plaintiff has filed with the Court an assignment of EAJA fees to her counsel (ECF 18), if Plaintiff has no debt subject to the Treasury Offset Program, then Defendant shall cause the check to be made payable to Plaintiff's attorney and mailed to Plaintiff's attorney. If Plaintiff owes a debt subject to the

Treasury Offset Program, then the check for any remaining funds after offset of the debt shall be payable to Plaintiff and mailed to Plaintiff's attorney.

**IT IS SO ORDERED.**

DATED this 1st day of May, 2020.

/s/ Michael H. Simon  
Michael H. Simon  
United States District Judge